

IN THE CIRCUIT COURT OF CAMPBELL COUNTY, TENNESSEE

FILED

AMERICAN ZURICH INSURANCE  
COMPANY as subrogee of Arnold  
Transportation Services,

Plaintiff,

v.

CUMMINS, INC. and PETERBILT  
MOTORS COMPANY,

Defendants.

DATE: 12/19 2014 TIME 11:49 Am

CIRCUIT COURT — CAMPBELL COUNTY

) BOBBY W. VANN CLERK

) *[Signature]*  
DEP. CLERK (D.C.)

) No. 15826  
JURY DEMAND

COMPLAINT FOR DAMAGES

COMES NOW the Plaintiff, American Zurich Insurance Company, by and through undersigned counsel, and for their cause of action against the Defendants, Cummins, Inc. (hereinafter "Cummins") and Peterbilt Motors Company (hereinafter "Peterbilt") respectfully states as follows:

PARTIES

1. Plaintiff, American Zurich Insurance Company (hereinafter "Zurich") is a Illinois corporation engaged in the insurance business with its statutory home office and main administrative office or principal place of business located at 1400 American Lane, Schaumburg, Illinois 60196. It is authorized to transact business and transacts business in Tennessee.

EXHIBIT

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2. Defendant Cummins Inc. is an Indiana Corporation with a Tennessee agent for service of process.

3. Defendant Peterbilt Motors Company is a Texas corporation incorporated under the laws of Texas, which may be served through the Secretary of State.

4. Plaintiff Zurich is a subrogee of Arnold Transportation Services (hereinafter the "Insured.")

5. This Court has personal jurisdiction over the parties to this case because Defendants do business in Tennessee, have significant contacts in Tennessee, the accident occurred in Tennessee, and the acts giving rise to this claim occurred in Tennessee.

6. Venue is proper in this Court as Defendants are subject to personal jurisdiction here.

#### **FACTS**

7. Andrew Woods (hereinafter "the driver") was a driver employed by Arnold Transportation Services at the time of the incident herein.

8. On June 22, 2013 while driving on Interstate 75, in or near Jellico, Tennessee, Andrew Woods heard a loud explosion in the engine of the vehicle he was operating, a 2012 Peterbilt 587 Conventional Cab Sleeper, VIN #1XP4D49X1CD132435 ("Insured Vehicle"). The driver then saw black smoke emitting from the engine compartment. As a result, the driver pulled over and

exited the vehicle shortly before it caught fire. This incident took place on Interstate 75, at or near Mile Marker 152, in Jellico, Tennessee.

9. In his attempt to exit the vehicle as quickly as possible the driver fell and injured his back. The vehicle burned and was a total loss.

10. At the time of the accident, the vehicle was equipped with a 14.9 liter L6 Cummins Diesel engine.

11. Examination of the vehicle's exterior and interior burn patterns indicated that the fire originated in the engine compartment with the forward progression of the fire into the passenger compartment through the existing openings in the bulkhead and through the windshield. Two holes were found in the bottom of the engine block on the driver and passenger side.

12. The driver experienced lumbar disc displacement as a result of his fall from the vehicle and has required extensive medical treatment and physical therapy.

13. As a result of the driver's injuries from the accident, Zurich has paid \$91,274.98 in workers compensation claims.

#### **COUNT ONE - NEGLIGENCE**

14. Defendants owed the Insured and its subrogee a duty of reasonable care in its design, manufacturing, sale, testing and inspecting of the engine at issue in this case.

15. Defendants breached their duty of care in failing to properly design, manufacture, test, and inspect the engine, which resulted in a faulty engine that exploded and caught fire.

16. As a direct and proximate result of Defendants' negligence, the driver of the vehicle suffered injuries resulting in actual losses to Zurich in the amount of \$91,274.98 as a result of payments from Zurich to Mr. Woods.

17. Furthermore, Zurich expects to incur future damages in the form of worker's compensation payments to the driver of the vehicle as a result of its policy with the driver's employer.

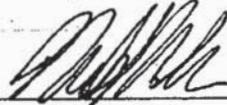
WHEREFORE, PREMISES CONSIDERED, Plaintiff prays:

1. That a jury be empanelled for the trial of this cause;
2. That Zurich be awarded damages in the amount of \$91,274.98;
3. That pre- and post-judgment interest be awarded against Defendants, jointly and severally, accruing from the date of the loss; and
4. That this Court grant Plaintiff any other appropriate relief.



Respectfully submitted,

BLACK McLAREN JONES RYLAND AND  
GRIFFEE, P.C.



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